

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARIA KULPA, as Personal
Representative for the ESTATE OF
BRONISLAW KULPA, Deceased,

Plaintiff,

Case No. 13-cv-11048
Hon. Terrence G. Berg

v

JOHN CANTEA, KENNETH CUCCHIARA,
JEFFREY RATTRAY, PAMELA PECK-
GAGNE, JOHN LADAS, DOMINIC
GABRIEL, WILLIAM HORAN, DAVID
ABBOTT, PETER MARTIN, and JOHN DOE I,

Defendants.

JAMES J. HARRINGTON, IV (P65351) Fieger, Fieger, Kenney & Harrington, P.C. Attorney for Plaintiff 19390 West Ten Mile Road Southfield, MI 48075 (248) 355-5555 j.harrington@fiegerlaw.com	TIMOTHY S. FERRAND (P39583) Cummings, McClorey, Davis & Acho, PLC Attorney for Defendants 19176 Hall Road, Suite 220 Clinton Twp., MI 48038 (586) 228-5600 tferrand@cmda-law.com
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**PLAINTIFF'S MOTION TO APPROVE SETTLEMENT PROCEEDS AND
DISTRIBUTION OF PROCEEDS TO THE
ESTATE OF BRONISLAW KULPA, DECEASED**

NOW COMES, Plaintiff, MARIA KULPA, as Personal Representative for the Estate of BRONISLAW KULPA, Deceased, by and through counsel, Fieger, Fieger, Kenney & Harrington, P.C., in support of her Motion to Approve Settlement Proceeds and Distribution of Proceeds to the Estate of Bronislaw Kulpa, Deceased, hereby states as follows:

1. This is a 42 U.S.C. §1983 deliberate indifference and excessive force claim wherein Plaintiff, Bronislaw Kulpa, died while in the custody of the Macomb County Jail from arteriosclerotic and hypertensive heart disease exacerbated by physical exertion and restraint on October 4, 2011.

2. Bronislaw's wife, Maria Kulpa, was appointed Personal Representative to the Estate of Bronislaw Kulpa, Deceased, on March 4, 2013, by the Macomb County Probate Court. (**Exhibit 1 – Letters of Authority**).

3. Notice of this hearing has been given to all legal heirs. (**Exhibit 2 – Waiver/Consents Directed to Heirs**).

4. Mr. Kulpa died testate leaving everything to his wife, Maria Kulpa (**Exhibit 3 – Last Will & Testament**). As such, there are no minor takers to Bronislaw Kulpa's Estate.

5. That extensive discovery was exchanged between the parties, 46 depositions were taken, the case was dismissed by summary judgment, which was later reversed by the 6th Circuit Court of Appeals, and, at Facilitation, the parties were able to come to an agreement for a full settlement of any claims that the Estate of Bronislaw Kulpa, Deceased, has against John Cantea, Kenneth Cucchiara, Jeffrey Rattray, Pamela Peck-Gagne, Dominic Gabriel, William Horan, David Abbott, Peter Martin and the Macomb County Jail for the October 4, 2011, incident, in the amount of **One Million Six Hundred Thirty-Five Thousand Dollars (\$1,635,000.00)**.

6. Plaintiff seeks approval of the **One Million Six Hundred Thirty-Five Thousand (\$1,635,000.00) Dollar Settlement** from this Court, as it is in the best interest of the Estate of Bronislaw Kulpa, Deceased.

7. Plaintiff further seeks authority from this Court to effectuate the **One Million Six Hundred Thirty-Five Thousand Dollars (\$1,635,000.00)** settlement and to distribute the settlement proceeds in the following manner:

- a. **\$195,487.78¹** payable to Fieger, Fieger, Kenney and Harrington, P.C., said sum representing reimbursement for attorney costs expended in this matter;
- b. **\$479,837.41** payable to Fieger, Fieger, Kenney and Harrington, P.C., said sum representing attorney fees payable pursuant to the contingency fee and agreement between Fieger, Fieger, Kenney and Harrington, P.C. and Plaintiff.
- c. **\$4,000.00** payable to the Law Offices of Howard Linden, P.C., for their portion of attorney work done for the probate estate;
- d. The balance of the net proceeds of **\$955,674.81** will be distributed to the Estate of Bronislaw Kulpa, Deceased, for conscious pain and suffering, as follows:
 - i. **Maria Kulpa (wife/PR)**.....\$505,674.81
 - ii. **Anna Kulpa (daughter)**.....\$150,000.00
 - iii. **Elzbieta Kulpa (daughter)**\$150,000.00
 - iv. **Marek Kulpa (son)**.....\$150,000.00

8. All funeral and burial costs have been paid.

¹ The costs posted represents an additional **\$30,000.00** which will be held for future costs and distributed to the client after 30 days on a 2/3 to the Personal Representative, 1/3 to Fieger Firm to account for attorney fees and costs not received. The 2/3 will be distributed to Personal Representative, Maria Kulpa.

9. The above statements are true to the best of Plaintiff's knowledge and belief.

10. That the proposed Order approving the settlement and distribution as outlined above is attached as **Exhibit 4**.

WHEREFORE, Plaintiff respectfully requests this Court approve the settlement, grant authority to effectuate the settlement and approve the distribution of settlement proceeds as it is in the best interest of the Estate.

Respectfully submitted,

/s/James J. Harrington, IV

Geoffrey N. Fieger (P-30441)
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Dated: January 10, 2018

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**BRIEF IN SUPPORT OF THE MOTION TO APPROVE SETTLEMENT
PROCEEDS AND DISTRIBUTION OF PROCEEDS TO THE ESTATE OF
BRONISLAW KULPA, DECEASED**

Plaintiff hereby relies upon MCL 700.3924(2) in support of her Motion to Approve Settlement Proceeds and Distribution of Proceeds to the Estate of Bronislaw Kulpa, Deceased.

Respectfully submitted,

/s/James J. Harrington, IV

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Dated: January 10, 2018

Certificate of Service

James J. Harrington, IV, hereby certifies on January 10, 2018, he caused a copy of this document to be served upon all parties of record, and that such service was made electronically upon each counsel of record so registered with CM/ECF system.

/s/ James J. Harrington, IV, Esq.